

# A Turkish Fairy Tale About a ‘New, Civilian Constitution’

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President Recep Tayyip Erdoğan is once again calling for a ‘new, civilian constitution’, although the [previous round](#) of far-reaching constitutional amendments have only been in force for 2.5 years. On the one hand, his ruminations could appear odd considering that, between 2002 and 2011, the Justice and Development Party (AKP) enjoyed a majority large enough to change the constitution on its own, yet refrained from drafting a new version. On the other hand, Erdoğan’s thrust to constitutional change fits to a more general pattern.

Due to declining approval rates, the AKP is turning to well-proven populist strategies, initiating debates on the constitution while referring positively to the inclusive constitution of 1921. While they do not enjoy a constitution-changing majority in Parliament, and indeed failed to organize one even when ruling with an absolute majority until 2018, this inclusive claim is essential. Despite this rhetoric, the ruling AKP is not interested in a new constitution at all, but rather in specific modifications that will secure their own power.

## Constitutional debates in the AKP era

Throughout Turkey’s post-Ottoman history, a total of four constitutions (1921, 1924, 1961 and 1982) have been drafted. Each has undergone numerous and extensive changes. Indeed, constitutional issues are not only recurrently salient in Turkey, but also frequently a subject of election campaign promises. Thus, it is not surprising that, roughly two years before the next elections, the President of the Turkish Republic states that “Turkey is in need of a new constitution”.

At the same time, the ruling AKP could be seen as calling into question its own constitutional amendments of 2018. While contradictory at first glance, this hardly represents a novelty, but rather one of the constants in the AKP era. Already in 2003, the ruling party raised the idea of drafting a new constitution, when the then prime minister, Erdoğan, pondered about introducing a ‘presidential system’ along the lines of the United States. In 2011, a parliamentary committee on constitutional consensus was built specifically for this purpose, but was dissolved just two years later due to dissent among its members. Ironically, back then, the three opposition parties reached a consensus on a rationalized parliamentary system. In turn, the AKP stuck to its version of a ‘presidential system’, which they envisaged as a system characterized by a one-person executive and vested with wide-ranging powers.

Although the term ‘presidentialism’ is commonly used, it is misleading, since presidentialism presupposes an independence of both legislative and executive branches. Since the Turkish Parliament and the popularly elected President

each have the right to call early elections for both bodies, – similar to the short-lived ‘parliadentialism’ in Israel between 1996 and 2002 – the feature of mutual independence clearly does not apply. This unusual form of government is closer to a parliamentary than a presidential system, which is why we should speak of ‘parliamentarism alla Turca’ instead of ‘presidentialism alla Turca’.

## References to the constitution of 1921

During the current debate, some AKP politicians have recalled the first post-Ottoman [constitution of 1921 as role model](#). With only 24 articles, it was quite compact but – compared to other Turkish constitutions – its drafting process largely met democratic requirements. In comparative terms, the 1921 constitution is considered a rare example of parliamentary absolutism, since an executive was explicitly not envisaged. Moreover, it was the only Turkish constitution to date to limit the central state and instead endow local governments with extensive authority. At this point, it is rather unlikely that AKP will seriously use this predecessor as a guideline for a new constitution. After all, this would – at least on paper – strengthen the legislature, whereas the last constitutional revisions diminished the legislature to an organ with no systemic relevance at all. Likewise, the outlook for a decentralized state would not be compatible with the Turkish *raison d’état* and in particular with AKP’s ideology, which, in the spirit of Carl Schmitt, seeks to centralize the state in order to concentrate power.

There is therefore good reason to question why the constitution of 1921 is being brought into the picture. As a constitution emerging in the turmoil of the so-called Turkish War of Independence, and competing with the Ottoman constitution which remained in force, it needed to be equally appealing to a variety of political actors: First, followers of the Islamic monarchy were embraced as no head of state was envisioned and thus the republican character was concealed; neither the sultanate nor the caliphate were overtly challenged. Secondly, the provisions on decentralized self-administration raised hopes among regional groups and minorities of transferring the newly gained autonomy into the new order. Thirdly, opponents of the monarchy were convinced by the notion of popular sovereignty being safeguarded in the hands of the parliament. In this sense, the 1921 constitution appealed to many groups.

While the AKP constantly invokes the image of a ‘new, civilian constitution’, this inclusive claim is at odds with the reality of its recent constitutional amendments. Although the constitutional amendments enacted in 2018 are not a straight result of military intervention, the parliamentary ballot and constitutional referendum occurred under a highly illiberal state of emergency. There is a clear gap between rhetoric and practice, which leads to the assumption that the inclusive approach AKP purported to have taken was pure populism.

## Strengthening the ‘parliamentarism alla Turca’

Thus, what is the purpose of the demands for a new constitution? Based on previous government practice, the likelihood of a new constitution satisfying civil, liberal

and democratic demands is highly doubtful. A major transformation of the form of government is also hardly to be expected, as the President [already stated](#). Likewise, there is not much reason to hope for a democratization of the current constitution. Most likely, the agenda will focus on further reinforcing the president's position within the authoritarian 'parliamentarism alla turca', which may take several expressions:

1. The removal of presidential term limits. The current rule stipulates that the head of state can be re-elected only once and ([Article 101](#)), under extraordinary circumstances, a third time.
2. In the past, there has long been a discussion about lowering the requisite majority to appoint the head of state from an absolute to a relative majority (also [Article 101](#)). Such reduction would increase the odds of re-election.
3. The remaining (minor) restrictions on executive decrees ([Article 104](#)) that have the binding effect of law and on budgetary provisions could be removed, thus giving the president more room for maneuvering.
4. Additionally, the removal of the parliamentary vote of no confidence in order to oppose the persistent threat of being voted out of office is also conceivable. Although a required three-fifths majority ([Article 116](#)) initially sounds like a high threshold, it is even more likely to be realized than a constructive vote of no confidence, since the former is a destructive political majority and only need be united to remove the president.
5. Aside from horizontal separation of powers, measures restricting other fundamental rights and freedoms are thinkable. This would be in line with AKP's recent authoritarian approach against the opposition, exemplified in [the way the HDP has been dealt with](#).

What all these speculative 'reforms' have in common is that they are intended to strengthen the president in office and to counteract a situational dependence on the MHP in the course of presidential and parliamentary elections. After all, the society is deeply divided, reflected not least in the last municipal elections in which AKP suffered [major losses in crucial cities](#). Thus, the ruling party is seeking constitutional ways to maintain its own power, as it has lost much of its appeal in recent years. The decline in support is especially prevalent among the youth – the voters of tomorrow – which can be observed, for example, in the ongoing [resistance of Bo#aziçi University students](#) against a rector appointed by the government.

## Conclusion

In the end, both the call for a 'new, civilian constitution' and the asserted role model of the 1921 constitution are part of the AKP's rhetorical-populist repertoire: Complaining about the 'rules of the game', even though the AKP itself has been setting them for almost two decades. Once again, the Turkish public is witnessing a pseudo-discussion on a trumped-up urgency of a new constitution, conducted strategically rather than honestly for the common benefit. The likelihood of an actual implementation of a 'new, civilian constitution' is minimal, while the government's efforts are motivated by the self-preservation of its power, thus making another authoritarian shift probable.

Currently, the proponents of a constitutional amendment, the AKP and MHP, lack a majority in order to reach the required quorum of at least 360 seats for a referendum. For that purpose, they are seeking cooperation with the IYI-party, which is a splinter of the MHP. A first rapprochement may already be observed: All three parliamentary groups could be engaged in negotiations on a [party ban against the HDP](#). Consequently, the posturing around a 'new, civilian constitution' spells a highly disconcerting outlook for the few remaining democratic forces in Turkey.

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